

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

W6 RESTAURANT GROUP, LTD, DBA)	CASE NO. 1:21-CV-02361
Barley House, et al.,)	
)	JUDGE BRIDGET MEEHAN BRENNAN
Plaintiffs)	
)	
v.)	
)	
ISABELLA CASILLAS GUZMAN, in her)	
official and individual capacity as)	
Administrator of the Small Business)	
Administration, et al.,)	
)	
Defendant)	

**PLAINTIFFS' MOTION FOR A TEMPORARY RESTRAINING ORDER,
PRELIMINARY INJUNCTION, AND EXPEDITED DISCOVERY**

Pursuant to Rule 65 of the Federal Rules of Civil Procedure, Plaintiffs¹ move for a Temporary Restraining Order, a Preliminary Injunction, and Expedited Discovery against Defendants Isabella Casillas Guzman (“Guzman”) and John A. Miller (“Miller”) (collectively “Defendants”),² enjoining Defendants from paying out any grants from the Restaurant Revitalization Fund (the “RRF”) unless and until Defendants process applications and pay grants

¹ References to “Plaintiffs” shall mean and refer to the named plaintiffs in this lawsuit, namely 100 E. Central Boulevard, LLC dba Stagger Inn (“Stagger Inn”), 1909 W25, LLC dba TownHall Ohio City (“TownHall”), 2125 Cafe, LLC dba Green Goat (“Green Goat”), TH CBUS, LLC dba TownHall Columbus (“TownHall Columbus”), Bistecca Corporation dba Parma Hts. Harry Buffalo (“Harry Buffalo”), HB Church Street, LLC dba Harry Buffalo Orlando (“Harry Buffalo Orlando”), HHHB, LLC dba Highland Heights Harry Buffalo (“Highland Heights Harry Buffalo”), JSJ Klub, LLC dba E.4th Harry Buffalo (“E.4th Harry Buffalo”), MGG Hospitality, LLC dba Rebol Cleveland (“Rebol”), Star Bar & Grill, Inc. dba Harry Buffalo (“Star Grill”), The Other Bar, LLC (“The Other Bar”), W6 Restaurant Group, LTD, dba Barley House (“Barley House”), Mandrake Columbus, LLC dba Town Hall Rooftop (“Town Hall Rooftop”), Westerville Restaurant Group, LLC dba Harry Buffalo (“Westerville Harry Buffalo”), and Summer House, LLC dba Summer House (“Summer House”).

² Defendant Guzman is the Administrator of the Small Business Administration (“SBA”), and Defendant Miller is the Deputy Associate Administrator for Capital Access for the SBA. Defendants are legally responsible for disbursing grants from the Restaurant Revitalization Fund (“RRF”), a fund created under the American Rescue Plan Act (“ARPA”) for monetary relief to restaurants harmed by the COVID-19 pandemic.

in the order that the applications were received and without regard to the race or gender of the applicants, as required under the Constitution of the United States of America.

The exigency necessitating this Motion under Rule 65 is created by the SBA's recent announcement that the SBA has yet to distribute \$180 million allocated to the RRF. Plaintiffs were early applicants for relief under the RRF and did not receive any grant from the initial funding in May 2021 due to the statutory framework for preferences in distributing funds from the RRF, which the Sixth Circuit Court of Appeals held was unconstitutional in *Vitolo v. Guzman*, 999 F.3d 353 (6th Cir. 2021). The *Vitolo* Court entered an order enjoining the SBA from using "unconstitutional criteria when processing" applications under the RRF. *Id.*

Plaintiffs, who have a compelling and legally protected interest in receiving grants under the RRF, have reason to believe that the SBA will continue to distribute the RRF funds contrary to the Sixth Circuit's decision in *Vitolo*. To ensure that Plaintiffs are given a fair and equal opportunity to receive their share of the remaining funds, Plaintiffs seek a temporary restraining order and preliminary injunction requiring Defendants to halt paying out any grants from the RRF until such time that the Court can ensure that the applications are processed in a manner consistent with *Vitolo* and that United States Constitution. Plaintiffs further seek expedited discovery in advance of a preliminary junction hearing directed to, *inter alia*, the SBA's current practices in processing applications for the remaining RRF funds (including any preferences among RRF applications) and the status of Plaintiffs' applications.

The grounds for this motion are set forth more fully in an accompanying Memorandum in Support. Based on the allegations set forth in the Amended Complaint (Dkt. 30) and Declaration of Robert George, Plaintiffs seek, *inter alia*, the following emergency, temporary and preliminary relief:

1. Entry of a Temporary Restraining Order preserving the status quo and restraining Defendants from distributing funds from the RRF pending further proceedings to ensure the protection of Plaintiffs' rights under the Constitution of the United States;
2. Expedited discovery in advance of a preliminary injunction hearing regarding the SBA's current practices for processing applications to the remaining RRF funds; and
3. Entry of a Preliminary Injunction enjoining Defendants from disbursing funds from the RRF pending trial and a final judicial determination of Plaintiffs' constitutional rights vis-à-vis the Defendants' processing of applications and paying grants under the RRF.³

Respectfully submitted,

/s/ Donald G. Slezak

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³ Plaintiffs' orally advised Defendants' counsel of the forthcoming Motion on August 23, 2022 and followed up in writing on August 25, 2022, advising of the same. Upon filing, Plaintiffs have immediately served the Motion, Memorandum and supporting materials on counsel for Defendants.

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of August 2022, the foregoing was filed through the Court's CM/ECF electronic filing system. If a Party should not receive a copy through the Court's filing system, a copy of the forgoing will be sent via email upon Plaintiff's counsel of record.

/s/ Donald G. Slezak

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One of the Attorneys for Plaintiffs